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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,879	12/05/2003	Antonin A. Meibock	KORH-1-1001	9160
25315	7590	02/23/2006	EXAMINER	
BLACK LOWE & GRAHAM, PLLC 701 FIFTH AVENUE SUITE 4800 SEATTLE, WA 98104			RESTIFO, JEFFREY J	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/729,879	Applicant(s) MEIBOCK, ANTONIN A.	
	Examiner Jeffrey J. Restifo	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26,29-50 and 52-129 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26,29-50 and 52-129 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Acknowledgments***

1. Acknowledgment is made of the amendment filed 12/8/05.

### ***Drawings***

2. The drawings were received on 12/8/05. These drawings are approved.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Seltzer (US 5,462,295 A).

Seltzer discloses a skate boot comprising a base 19 with an upper face and lower face, and an upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines 5-18.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1 above, and further in view of Baikie (US 3,934,892 A).

Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the skate attachment of Baikie in order to remove and replace the skate mechanism. Threaded fasteners are well known in the art as an option to rivets.

With respect to claims 6, 8, and 9, reversing the male female connection or using rivets is well known in the art of fasteners and it would have been obvious to one having ordinary skill in the art at the time of the invention to have used any well known fastener in order to secure the skate mechanism of Baikie to the skate boot and base of Seltzer.

7. Claims 3, 10, and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1 and 42 above, and further in view of Spier (US 3,958,291 A).

Seltzer does not disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with shell 12 and core recess 18

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filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer with the foam core of Spier in order to provide cushioning and dampening to the user foot.

8. Claims 20-30, 42, 48-50, 52-59, 101-103, 107-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claim 1 (for claims 20-30), respectively, above, and further in view of Labonte et al. (US 6,871,424 B2).

Seltzer does not disclose multiple layers of various rigidity. Labonte et al. does disclose a skate boot 14 able to be formed from layering composites or various rigidity, as recited in column 4, lines 33-37. It would have been obvious to one having ordinary skill in the art at the time of the invention to have molded the boot of Seltzer with the layers as taught by Labonte et al. in order to increase rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 24-30, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the layers of the boot of Seltzer, as modified by Meibock et al., of materials such as Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

With respect to method claims 107-115, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

9. Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Labonte et al., as applied to claim 42 above, and further in view of Baikie (US 3,934,892 A).

Neither Seltzer nor Labonte et al. disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Labonte et al. with the skate attachment of Baikie in order to remove and replace the skate mechanism. Examiner note: Threaded fasteners are well known in the art as an option to rivets.

10. Claims 31-40, 60-69, and 116-125 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Meibock et al., as applied to claims 30, 59, and 89 respectively above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 30-33, neither Seltzer nor Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 34-37, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

With respect to claims 39 and 40, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

With respect to method claims 116-125, the method recited in these claims is inherently performed in the manufacturing of the skate of Seltzer above.

11. Claims 41, 70, and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, as applied to claims 1, 42, and 101 respectively above, and further in view of Olson et al. (US 5,171,033 A).

Seltzer does not disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

12. Claim 71-76, 80, 97, and 128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer (US 5,462,295 A) and in further view of Baikie (US 3,934,892 A).

Seltzer discloses an ice skate system comprising a boot 12, a base 19 with an upper face and lower face, and a contoured upper support for a user's ankle having a first rigidity at a point near a user's ankle and a second rigidity at lower regions of the boot, as shown in figures 1-15 and recited in column 6, lines 52-67 and column 9, lines

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5-18. Seltzer does not disclose inserts for attaching the skate mechanism. Baikie does disclose a skate with boot 25, skate mechanism 11, 12, 13, 15, mounting bracket 14, and threaded inserts 26, 27, encompassed by the circumferential edge of the base 24 for attaching the skate mechanism to the boot, as shown in figures 1-6. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer with the skate attachment of Baikie in order to remove and replace the skate mechanism. Boot linings are well known in the art and it would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer as modified by Baikie with a boot lining in order to cushion the user's foot.

With respect to claim 72, Seltzer discloses inserts 82 to engage the skate attachment 66, and integral lugs 32, 40, each with attachment points 38, 46 parallel with the base for receiving skate attachments, as shown in figures 1-9.

13. Claims 77-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Baikie, as applied to claim 71 above, and further in view of Spier (US 3,958,291 A).

Neither Seltzer nor Baikie disclose a core section with foam material. Spier does disclose a skate comprising a boot comprising a base 20, 21 with core recess 12 filled with foam material and a plurality of recesses 14, as shown in figures 1-4. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer and Baikie with the foam care of Spier in order to provide cushioning a dampening to the user foot.



14. Claims 81-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer as modified by Baikie, as applied to claim 71 above, and further in view of Meibock et al. (US 6,168,172 B1).

Neither Seltzer nor Baikie disclose multiple layers of various rigidity. Meibock et al. does disclose a skate boot 10 with a plurality of layers 44, 36, 20, 48, and hinge member 358, as shown in figures 1-14. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the boot of Seltzer and Baikie with the layers and hinge of Meibock et al. in order to increase cushioning and rigidity in desired portions and increase flexure in other portions of the boot.

With respect to claims 85-89, the materials used to make the layers are not patentable unless they produce an unexpected result, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the layers of the boot of Seltzer and Baikie, as modified by Meibock et al., of materials such as Kevlar, fiberglass, carbon-fiber, polyurethane, all of which are known in the art as being lightweight and impact resistant, in order to make the skate strong and lightweight.

15. Claims 90-96, 98, 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer, Baikie, and Meibock et al., as applied to claim 89 above, and further in view of Lin (US 6,775,932 B2).

With respect to claims 90-92, none of Seltzer, Baikie, or Meibock et al. disclose a transparent layer with graphic design beneath. Lin does disclose a shoe with transparent layer 121 with graphic design 14, as shown in figure 2. It would have been

obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer, Baikie, and Meibock et al. with the graphic and transparent layer in order to add aesthetic appeal.

With respect to claims 93-96, the skate of Meibock et al. uses multiple layers of thickness, rigidity, and fiber concentration for changing the rigidity of the boot, as shown in figure 4.

With respect to claims 98 and 99, Meibock et al. discloses the base having a recess for receiving a toe cap 22, as shown in figure 3.

16. Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seltzer and Baikie, as applied to claim 71 above, and further in view of Olson et al. (US 5,171,033 A).

Neither Seltzer nor Baikie disclose ventilation openings. Olsen et al. does disclose a skate 10 comprising ventilation openings 33, 61-68, 70, as shown in figures 1-5. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the skate of Seltzer and Baikie with the vents of Olsen et al. in order to provide the user with ventilation to keep feet from sweating.

### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-129 have been considered but are moot in view of the new ground(s) of rejection. With respect to the applicant's arguments concerning layering instead of injection molding, Labonte et al. discloses a skate boot able to be made from layering composites of differing rigidities. With respect

to the applicant's arguments concerning Seltzer applied to claim 1, the claim does not recite the boot "material" as having different rigidity properties in certain portions, but rather the boot having differing rigidity in certain portions, which still reads on Seltzer. Threaded fasteners are well known in the art of skates. Foam cores are also well known in molded skates.

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (571) 272-6697. The examiner can normally be reached on M-F 10-7.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JJR

Jeffrey J Restifo  
Primary Examiner  
Art Unit 3618